

### REMARKS

This application has been reviewed in light of the Office Action dated March 16, 2004. Claims 1-20 are presented for examination, of which Claims 1, 7, 8, 14, 15, 19 and 20 are in independent form. Claims 21-29 have been cancelled, without prejudice or disclaimer of subject matter. Claims 1, 2, 4-9, 11-15 and 19 have been amended to define still more clearly what Applicant regards as his invention. Favorable reconsideration is requested.

Applicant gratefully acknowledges the allowance of Claims 15-20 and the indication that Claims 3 and 10 would be allowable if rewritten in independent form, with no change in scope. The latter claims have not been so rewritten because, for the following reasons, their respective base claims are believed to be allowable.

Claims 1, 4, 5, 7, 8, 11, 12, 14, and 25-29 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,401,121 (Yoshida et al.), and Claims 2, 6, 9, 13, and 21-24 were rejected under 35 U.S.C. § 103(a) as being obvious from *Yoshida* in view of U.S. Patent 6,374,253 (Weider et al.).

As is discussed in the present application, the purpose of the present invention is to mitigate problems that arise with the use of mirror servers (two or more servers both storing identical files with the intention, for example, of permitting users faster access to any of the files that may be needed).

Independent Claim 1 is directed to a data management system which has a plurality of servers connected through a network and transfers data managed by each server in accordance with a request from a terminal. According to Claim 1, each server comprises recording means for recording the number of times of transfer of target data managed by the

server, which is requested from the terminal through a second server, in association with the second server and the target data, and copy means for copying the target data to the second server on condition that the number of times of transfer of the target data requested through the second server exceeds a predetermined number.

Among other important features of the system of Claim 1 are:

(a) One server records the number of times of data transfer requested from a terminal through the second server, in association with the second server and the data; and

(b) The one server copies the data to the second server when the recorded number of times exceeds a predetermined number.

After copying, the second server can transfer the data to a terminal, without the one server having to transfer the data to a terminal against a data transfer request through the second server.

By virtue of these features, data often requested from a terminal can automatically be stored in a server which the terminal normally or mainly accesses. As a result, the traffic volume in the network and the response speed of the server can be improved.

*Yoshida* relates to a system in which mirror servers are used to make files available to users of a network. *Yoshida*, however, takes an approach different from that to which Claim 1 is directed. In the *Yoshida* system, a control server 7 records the number of times that video server (1, 2) transfers a given body of data (see col. 5, lines 52-60). Based on this information, the *Yoshida* control server 7 decides which of plural servers should respond to a given transmission request, opting for the server whose transmitted-data count is the lowest. In the *Yoshida* system, the control server 7 copies the data to a video server other than a video

server of which the number of times exceeds a predetermined number. It is irrelevant to this decision whether or not the data transfer request that is being processed was made another server. Applicant submits that nothing has been found in *Yoshida* that would teach or suggest the mentioned features (a) and (b) of Claim 1. Since in the *Yoshida* system, data is simply copied to an idle server, that system needs to seek and find a server storing the data requested from a terminal, and thus the average response speed becomes worse. Accordingly, it is believed to be clear that Claim 1 is allowable over *Yoshida*.

Independent Claims 7, 8 and 14 each recite features including features (a) and (b) discussed above, and therefore are also believed to be clearly allowable over *Yoshida*.

A review of the other art of record, including *Weider*, has failed to reveal anything which, in Applicant's opinion, would remedy the deficiencies of the art discussed above, as a reference against the independent claims herein. Those claims are therefore believed patentable over the art of record.

The other rejected claims in this application depend from one or another of the independent claims discussed above and, therefore, are submitted to be patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, individual reconsideration of the patentability of each claim on its own merits is respectfully requested.

In view of the foregoing amendments and remarks, Applicant respectfully requests favorable reconsideration and early passage to issue of the present application.

Applicant's undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

*El P. Diana*  
Attorney for Applicant

Registration No. 29,296

FITZPATRICK, CELLA, HARPER & SCINTO  
30 Rockefeller Plaza  
New York, New York 10112-3801  
Facsimile: (212) 218-2200

NY\_MAIN 417022v1